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**Concept and Rights of Expatriate  
Temporary-Contract Employment in GCC  
States in Light of Legislative and  
Executive Developments**

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**The Social and Labor Studies Series**

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### *Director-general's note*

When oil was discovered in the Arab Gulf States, those states became a target for many people who landed there from every part of the world to earn a living. The influx of expatriate labor has been boosted by the social, economic and cultural upheavals which transpired in the Arab Gulf States in the 1970s of the last century. These upheavals had been marked by the rise in oil prices which created more demand for expatriate workers who were contracted on a temporary basis.

But with the dramatic increase in the expatriate workforce, inevitably the phenomenon that brought up several problems, on the legal, social and economic levels, had become the focus of many studies. Undoubtedly, like the national labor, this expatriate workforce does come under the authority and supervision of the employers after being contracted. And like the national workforce, it might be subject to employers' injustices in a relationship where the worker usually emerges as the aggrieved and economically vulnerable party.

The GCC States, therefore, have stressed the need for a legal mechanism that would provide a decent life to the expatriate workforce on temporary contracts as well as protect it against all kinds of insecurities.

Under this legal mechanism, expatriate workers have been granted a number of rights and privileges on an equal footing with the national workforce. The GCC States have not spared any effort to provide this expatriate workforce social, legal, security and health services in line with legislations that are based on a fair and humanitarian approach towards the expatriate workers temporarily contracted. Besides extending the workers equal rights, such legislations also lay emphasis on the fact that these rights are given to all irrespective of gender, race, religion, nationality color, language, belief or origin. The legislations of the GCC States also embody the procedures that would help deal with any individual case which could be in prejudice with these rights. This approach, marked by equality in dealing with all types of workforce, be it local or expatriate, is in line with the values and principles of the Islamic Sharia as well as the principles and outlines stipulated in the GCC States' constitutions and detailed in laws and regulations.

It should also be noted, on the other hand, that the GCC States have been committed to the right for everyone to work and choose the work field, under fair and satisfactory conditions that should guarantee the balance between the workers and employers in a way that would adhere to the provisions stipulated in the Arab and international labor conventions.

Based on this approach, the *GCC Council of Ministers of Labor* has assigned the *Executive Bureau* to prepare this study titled (*Concept and Rights of Expatriate Temporary -Contract Employment in GCC States in Light of the Legislative and Executive Developments*). The study would initially look into the concept of temporary contract employment of expatriate workers before it proceeds to explain and elaborate on the rights and privileges granted to those workers in the GCC States. These explanations will be based on statistics and figures as well as practices and legal precedents.

The *Executive Bureau of Council of Ministers of Labour & Council of Ministers of Social Affairs in GCC States* publishes this study with the hope it would provide researchers the opportunity to understand the reality of the situation of the temporary contract employment of expatriate workers in the GCC States.

**Director General  
Salem Al-Moheiri**





## Concept of Expatriate Temporary-Contract Labor

Discussions related to expatriate workers contracted on a temporary basis do raise a debate about the concept of such kind of labor, especially when compared or confused with “immigrant workers”. The concept of temporary expatriate workers is based on measures that are essentially different from their counterparts that apply to immigrants. However, ‘timing’ or the (the contract duration), is one basic difference that sets both groups apart.

The term "immigrant workers" refers to those who come from countries with the aim of staying permanently in others. This concept cannot apply to expatriate temporary-contract workers because that would overlook the difference between permanent and temporary workers. Any absence of a description that differentiates both is unacceptable since the type of protection provided to each is basically dissimilar. To mix up both kinds of protection would impose legal obligations peculiar to a reality which does not exist in the GCC States. The temporary workforce in the GCC States cannot be considered immigrant in the contemporary sense, for those workers have not left their countries to stay on a permanent basis in the Arabian Peninsula. Rather, they come and live in a foreign country for a few years in hope of accumulating savings that would help improve their living in homeland. This has been proven by those workers’ behavior, for they show no interest in learning the Arabic language or receiving training courses, during work hours. So by the time

the worker becomes a true asset to the GCC States, he/she returns to homeland. In addition, this type of workforce is only keen to save worthwhile amounts of money in the shortest time possible to remit to their families in countries of origin. On top of this, it has no potential to acquire any different character, be it through absolute integration or the unconditional initiative to settle down.

The difference in the nature of protection provided to immigrant workers, as compared to expatriate contracting ones that are conditioned by their non-permanent status), has persuaded the judicial authorities in some countries to tone down the rigidity of the imperative provisions of laws which regulate hiring expatriate workers. The concept of expatriate workers contracting on a temporary basis is not restricted in some GCC States to regular workers on legal status. It also includes those who violate the licensing regulations set by the labor law and the orders that emanate from it. Some laws do impose restrictions on hiring expatriate workers, but the violation of these restrictions by employers won't affect the worker's rights stipulated by the work contract such as his right to salary and annual leave as well as air-tickets back to homeland in case he/she is not employed by another employer upon termination of contract. However, it has to be noted that some other states adhere to the imperative nature of the provisions regulating work permits, which results in abolishing the work contract with resulting effects and referring to the general relevant provisions of work contract in civil laws to pinpoint the force of the contract in each specific case.

## **Rights of Expatriate Temporary-Contract Labor**

It is difficult to bring in one framework all the rights granted to expatriate workforce in the GCC States. Ranging from retaining the worker's dignity to safeguarding his/her rights to economic, social, legal and health services, that framework is proof to the solid belief of the GCC States in the importance of the true human asset, be it national or otherwise, in the production process. The following report will list the rights of the expatriate temporary-contract workers as accorded by the GCC States.

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## Chapter 1

# **Maintenance of Expatriate Temporary- Contract Labor's Dignity (Combating Human Trafficking)**



## **Maintenance of Expatriate Temporary- Contract Labor's Dignity (Combating Human Trafficking)**

Human trafficking, a term that comprises practices like slave labor, forced labor and enforcing restrictions on personal freedom as well as the sexual abuse of women and children, has raised concern in the national as well as international circles. The GCC States have made every effort to combat on all levels these crimes that are considered a violation of several human values and principles. The negative social impact of human trafficking has prompted the GCC States to take significant steps aimed at containing related malpractices on both the legislative and executive levels. Their outlook on the matter has also been boosted by the directives of Islam that preaches the maintenance of human dignity.

On the legislative level the GCC States' regimes and constitutions have been conscious of the necessity of banning suspected slave-work and forced labor. Penal and labor laws have come to play a significant role in protecting workers' well-being and dignity. The legislative and punitive effects of these laws would deter violations and exact punishments on those who are found perpetrating these crimes.

On the executive platform, several national committees and organizations have been established to amass efforts aimed at combating these crimes.

In the United Arab Emirates (UAE), the concerned authorities have taken every initiative to stand against all forms of human exploitation. In 2007 this Gulf state issued a law to penalize these practices. It also set up '*The National Committee to Combat Human Trafficking*' that is tasked with resisting related violations. According to the '*UAE National Report*'<sup>1</sup>, one of this committee's achievements until the end of 2007 has been the tracking down of some 10 cases involving human trafficking. For example, 13 persons received each a prison sentence after they were found guilty of human trafficking and facilitating prostitution<sup>2</sup>.

Also, two persons were sentenced each to five years imprisonment on charges of prostitution and human trafficking<sup>3</sup>. But efforts did not end at the setting up of the committee and the Federal Law (61) issued in 2006 to resist human trafficking. The government has also pressed ahead with plans to carry out a national strategy aimed at challenging the phenomenon, a strategy which comprised legislations and deterrent procedures that safeguarded victims as well as expanded the scope of international cooperation in this domain. The UAE is bent on amending the laws so they would keep abreast with the international approach to the issue. '*The UAE Human Rights Association*' (EHRA), a non-profit organization, has been established to follow up on complaints and cases attended to by the public authorities.

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1-The National Report 2007 (The National Committee for Combating Human Trafficking) -United Arab Emirates- [www.nccht.gov.ae](http://www.nccht.gov.ae).

2-Al Waqt daily, Bahrain-issue no. 1413-Jan.21.2011.

3-The Emirates Today daily. Thurs. Dec.31 2009.



Bahrain has of late set up special national committees and social establishments to challenge this phenomenon and deal with perpetrators and victims on the political, security and psychological levels. It has also set up the 'Labor Market Regulatory Authority' (LMRA) with the aim of establishing a balance between the Bahraini and non-Bahraini workforce. While it participated in several conferences and seminars to exchange ideas and suggestions, it also acceded a number of international and regional agreements and conventions concerned with combating human trafficking.<sup>4</sup> Efforts have peaked in 2008 when a law incriminating human trafficking was issued. It has been recently implemented as two persons have been arrested in connection with a related case. Both culprits used girls in prostitution after they brought them to Bahrain under the pretext of giving them employment. Meanwhile, Bahrain has recently established 'The National Institution for Human Rights' upon the Royal Decree Law (46) issued in 2010 to consolidate, develop and protect human rights as well as spread related culture. The institution will also be consulted when approached by the different organizations in the kingdom and forward recommendations relating to human rights legislations in a way that should be consistent with the kingdom's obligations on the international front. Besides attending to complaints, the institution has also undertaken tasks such as the cooperation with national and international human rights organizations, preparing reports that the kingdom presents regularly to whoever is concerned

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4-Al Wasat daily-Bahrain-issue no.2719. Mon Feb.15, 2010.

and organizing conferences and courses as well as issuing periodicals and brochures that highlight its goals.

With worthwhile efforts based on the cooperation of the different government organizations like the ministries of the interior, foreign affairs, labor and social affairs in addition to its human rights institution, the Kingdom of Saudi Arabia has been able to lay down anti-human trafficking mechanisms. Prior to this, the Saudi Ministry of Labor had adopted a number of strict measures to protect expatriate workers. Those included a number of ministerial orders that had been issued to ban all forms of human trafficking such as selling work visas, receiving commissions against providing employment. The orders also prohibited taking any amounts of money against obtaining entry or exit visas as well as work permits and residence visas; in addition to taking strong action against the violation of contractual obligations and the inhuman and unethical treatment<sup>5</sup> of workers and child labor. Also a committee has been formed within the Human Rights Institution to look into human trafficking-related crimes. All such measures have been taken by the Saudi Kingdom to curb the exploitation of workers in prostitution, begging or compulsory labor.

The Sultanate of Oman has also addressed the issue, not only because human trafficking violates the Omani penal and labor laws but also because it is an infringement of the

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5- (The Efforts of the Labor Ministry to Combat Human Trafficking and Safeguard the Expatriate Labor Rights)-Ministry of Labor, Planning and Development Department, Kingdom of Saudi Arabia, p.3.

principles of the Islamic Sharia as well as the traditions of the Omani society. The authorities have, therefore, issued an anti-human trafficking law and set up the '*National Supreme Commission for Combating Human Trafficking*'. Laws, procedures and regulations that are in line with international conventions and regional cooperation have been introduced to contain this crime. To take up this challenge, the Sultanate of Oman has also drawn up a relevant strategy through the amassing of national efforts. The strategy is targeting the gathering and analyzing of related data with the aim of tracking down trends in that domain. Also one of the strategy's aims is to find the root causes so that it would bring them under control. It is taking up the issue of highlighting the role of the employers in protecting the workforce<sup>6</sup>. The Sultanate has recently established the '*National Commission for Human Rights*' upon the Sultani Decree (124) issued in 2008. The *Commission* has taken up the tasks of protecting human rights and freedoms in the Sultanate in line with both country's system and international conventions and agreements.

Because the State of Qatar believes in the importance of curbing this crime, it has set up the '*The Qatar Foundation for Combating Human Trafficking*' that has undertaken marked achievements in this domain<sup>7</sup>. The foundation has launched many awareness programs and organized workshops, conferences and seminars specially for the purpose. It is all set to draft a law relating to maids and other household workers. That foundation is intensifying efforts undertaken by the State

6- ( The National Supreme Committee for Combating Human Trafficking).

7-The Qatar Foundation for Combating Human Trafficking – [www.gfcht.org.qa](http://www.gfcht.org.qa).

of Qatar to fight that crime. It signed several international agreements and forwarded a number of recommendations with the aim of introducing an anti-human trafficking law, all of which have come to boost the significant role played by the Qatari penal and labor laws as well as other laws that prohibit the participation of children in camel races. Initially the State of Qatar had formed the ‘*National Human Rights Committee*’ in 2002 that adheres to the principles set by the United Nations for all human rights organizations.<sup>8</sup>

The State of Kuwait has also worked up plans to curb these crimes. Like the rest of the GCC States, it has been alert to the importance of resisting all forms of human trafficking and forced labor. While the Kuwaiti Constitution bans forced labor, the Kuwaiti penal law incriminates the kidnapping of people, slave-labor and the unjustified retention of pay. The Kuwaiti labor laws and related orders have come to reject these practices. There is also the law the streamlines the services of the domestic recruitments agencies which provide home maids and similar categories of workers. The State of Kuwait has approved the “United Nations Convention Against Transitional Organized Crimes and the protocols Thereto”. It is also abiding by a number of international agreements with links to the protection of human rights such as the one banning child labor in addition to the charter that outlaws human trafficking and using persons in prostitution as well as the agreement relating to slave work and forced labor.

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8-The National Human Rights Committee, Qatar – [www.nhrc-qa.org](http://www.nhrc-qa.org).

The Republic of Yemen has pressed ahead with a plan that is particularly aimed at boosting the efforts of the Yemeni government to react to the security challenges that have emerged as a result of the big inflow of immigrants and asylum-seekers who become subject to human trafficking. Those categories have links with International transitional organized crime and illegal immigration from and to Yemen<sup>9</sup>. Such efforts are implemented by force of the Yemeni penal and labor laws that forbid the different forms of human trafficking. It is also noteworthy to point out that the Republic of Yemen has set up in April 2009 the *National Organization for Combat of Human Trafficking*.

The above-mentioned paragraphs do highlight the efforts undertaken by the member states on both the legislative and security levels. But it's worth mentioning that the ministries of labor in the GCC States have also reacted to this phenomenon. They have made a point to develop their mechanisms in general and their inspection machineries in particular, seeking by doing so the support of the International Labor Organization.

Cooperating with that international organization, the GCC ministries of labor are gaining experience and adopting the mechanisms that would ensure the effectiveness of the units tasked with inspecting the establishments and employers. It is a work policy followed in an attempt to reach the ideal implementation of laws and track down forced labor related violations.

9- Yemen News Agency (Saba Net) [www.sabanews.net](http://www.sabanews.net).



## Chapter 2

### Financial and Economic Rights





## Financial and Economic Rights

### 1- Availability of work opportunities

The increase in oil revenues in the GCC States during the last century has led to the expansion in establishing several development and infrastructure projects in addition to big factories and different forms of enterprises. But those sizeable establishments have raised the demand for a new kind of manpower that could not be provided by the national workforce.

The beginning of the 21<sup>st</sup> century has even been marked by a bigger demand in a region that aspires to keep pace with the progress made in development projects. Also the enforcement of the market economy policies, coupled by the construction boom in some Gulf States, has underlined the need for more expatriate workers. The GCC States have, therefore, provided work opportunities for labor-exporting countries that send many of their citizens to fill vacancies and wanted jobs which were high in demand. According to official statistics issued in 2006 by member states and concerned international organizations, expatriate workers make up 70.3% of the total of the national and expatriate manpower in the GCC States that was put at 14.5 million.<sup>10</sup>

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10- (Expatriate Labor in the GCC States, its Economic and Social Effects and Policies aimed to Contain its Adverse Effects), GCC Union for Chambers of Commerce, March 2008. [www.fgccc.org](http://www.fgccc.org) p.5.

That is bound to show that the GCC States have secured work opportunities for millions who have been able to accumulate savings that helped improve their standard of living, for themselves and their families, and overcome several social and economic difficulties long suffered as a result of the lack of financial gain. A survey conducted by Gulf Talent has revealed that expatriate workers make up 91% of the total manpower in the UAE, 89% of that of Qatar, 59% in Bahrain, 47% in Saudi Arabia and 33% in Oman.<sup>11</sup> The table in Supplement (1) shows the number and percentage of expatriate labor in the GCC States.

#### **Supplement 1 (Number and Percentage of Expatriate Labor in GCC States)**

Also, the availability of those work opportunities has reflected positively on the economy of the labor-exporting countries. In addition to reducing the unemployment rate, their economies have been boosted by the remittances in hard currency made by expatriate workers.

#### **2- Freedom to make remittance:**

Pushed by the desire to overcome the economic problems in home countries, many expatriate workers are keen to find employment in the GCC States. It is one way of getting over these problems, for the well- jobs in the Arab Gulf States would help them fulfill their needs and accumulate savings for the future. To hit these goals that are part and parcel of human

<sup>11</sup>-Al Wasat daily, Bahrain, issue no.1857-Sun Oct.7, 2007.

rights, the legislations in the GCC States have unconditionally enabled the expatriate worker to remit all his/her salary and savings to homeland. In addition to the freedom given to make financial as well as in-kind remittances, the worker, upon returning to homeland on vacation or permanently in case of termination of work contract, has the right to withdraw all his savings in foreign currency or in the currency of his country of origin. Sources indicate the high rate of expatriate workforce's remittances.

The table in Supplement (2) shows the amounts of money transferred between 2006-9 in each of the GCC States in addition to the total remittances of all workers in the these states.<sup>12</sup>

#### **Supplement 2 (Expatriates' Remittances in GCC States (2006-2009):**

It becomes obvious that the freedom given to the non-local workforce to transfer money has helped improve the expatriate worker's standard of living and safeguard his future financially. Although these remittances do negatively affect the GCC States' economies, the inflow of hard currency remitted by the expatriate laborers from the GCC States has enabled the labor-exporting nations to boost up their investments and press ahead with development plans.

12- These figures should be cautiously handled, for, due to the absence of a detailed analysis of the non-financial remittances that can be carried out by the expatriate workers as they leave the GCC States, the figures do not reflect the true size of transfers. Other remittances could be made through other non-official channels. The total, therefore, is expected to be slightly higher than the figures accredited by the GCC States' central banks.

### 3- Protection of workers' wages:

The GCC States' legislations and labor systems have defended the workers' right to pay by stipulating in the work contract that payment should take place on time and be protected against any foul play by employers. They have also specified the rate that could be deducted from the worker's pay to honor others' rights. Such protection is figured in the provisions of the international labor convention (95) in 1949 on Protection of Wages. According to these provisions, the worker's pay is set as per the agreement concluded between the worker and employer on condition that it does not go below the minimum wages set officially, where applicable

The above-mentioned legislations and systems have not only provided the worker a fair pay but also the freedom to use it and optimally benefit by it. Employers cannot force workers to buy stuff from shops that belong to or is produced by them.

Also the same legislations and regulations have not given the employer a free hand to cut down on the worker's salary. Pay cuts are made under the judicial approval as per the percentages and limits set by such regulations and legislations. In order to equally protect the national as well as the expatriate worker's pay, cuts made to clear debts that might burden workers, can be made according to certain conditions that shouldn't endanger the welfare of theirs and their families.

The labor legislations also include provisions that should invalidate any reconciliation or waiver that would derogate the rights of the expatriate or national worker in case the work contract is still valid. The courts have handled many cases where the worker had to confront the employer in a situation where the latter misused his/her powers.

Moreover, pay should be honored at the workplace or any other that both parties can agree upon, as stipulated by the legislations. This provision has been enforced so that the worker would not take pain in reaching various places to get his/her dues. The pay should also take place on any working day so that the worker shouldn't go to work on weekends to receive his/her wages. The dues should also be paid on regularly specific days so that he/she would know when exactly to receive the salary. Those are some of the protective aspects related to pay, as set out in the international convention (95), in 1976 on Protection of Wages as well as the Arab Convention (6), with respect to Work Standards.

The judicial authorities in the GCC States have laid down a number of principles to protect the workers' pay. For example, in a dispute settled by the (Cassation Court of Bahrain) between an employer and a worker who demanded that his pay be honored by his employer, the court ruled that the employer was the one that was required to prove the honoring of the pay. The worker is relieved of the burden of having to provide related evidence.<sup>13</sup> It is sufficient that the

13- Challenge no.370, 2005— Compilation of Rulings by Bahrain Cassation Court. To implement the ruling, the court decided that the payroll that doesn't show the workers' signatures, which attest to receiving the salaries, can't be used as evidence. Challenge no.263, 2005, Compilation

worker would claim that he hasn't been paid so that the employer starts to prove otherwise. This, undoubtedly, is an example of perfect protection for the worker's rights against the employer although it poses as an obvious deviation from well-established legal principles like "A person is presumably clear of debts" or "the burden of proof lies upon the claimant". And in laying down the essential principles that protect workers, court rulings do not differentiate between nationals and expatriates. Safeguarding the pay by the judicial authorities has been extended to everyone under all circumstances.

In some GCC States obligations with regard to honoring pay have made it essential for the employer to transfer dues to accredited banks named by the workers. The United Arab Emirates (UAE) has created a comprehensive wage protection system in cooperation with the UAE Federal Bank.<sup>14</sup>

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of Rulings by Bahrain Cassation Court in 2006. This protection is extended to nationals as well as expatriates.

14- The United Arab Emirates has taken significant steps to protect workers' pay. Several initiatives have been taken including the setting up of the (Wages Protection System) that undertakes control and inspection as well as addresses complaints. The 'Ratbi' service is one through which the worker can report any delay in or denial of pay as well as unjustified cuts.

## Chapter 3

### Rights Related to Education and Training





## **Rights Related to Education and Training**

### **1-Vocational Training:**

Human resources are the true wealth of any nation, and vocational training is the path for this wealth towards scientific development and the latest industrial and technological advancements. The sincere belief in this reality has prompted the GCC States to stress the principle of equality in benefiting from vocational training programs provided by the employer to staff with the aim of developing and updating their knowledge, skills and abilities so that they would undertake different duties and improve performance.

Based on the above-mentioned principle, the expatriate temporary-contract workers and national ones do equally benefit by training programs that take place within the firm or are provided by specialized training centers. Through practical as well as theoretical training programs, the staff manage to acquire technical skills necessary for enabling them to get acquainted with the latest industrial and technological developments in the fields of information technology and mechanical and electrical engineering as well as oil drilling and refinery. Such programs help develop in the staff the accumulative experience that would enable them to shift to a better workplace or be promoted within the same work, and in both cases the change would reflect positively on their incomes and improve their living. Stating such facts, it could

be said that the GCC States have become a huge training center for the expatriate workforce. A large number of less qualified or unskilled workers are brought to the GCC States where they obtain the opportunity to take worthwhile theoretical and practical types of training that would help them acquire certain technical and professional skills. Such training should eventually render them eligible for better jobs upon returning to homeland.

## **2-The right to education:**

Education continues to be one of the critical assets and the most relevant to nations' interests and development. It is the nation's duty, therefore, to extend the utmost care to it and provide educational institutions the vital support without which they cannot operate. Education is also an essential right that should be directed towards the thorough development of the individual's personality and preservation of human rights. It is also related to safeguarding people's right to the effective contribution to society, and is the only means towards establishing deeper understanding and tolerance among nations. Based on such realities, the GCC States' constitutions and systems have secured to all the right to education, be it nationals or expatriates. They have also licensed for the establishment of private schools that operate under the state supervision. Private schools with international standards have been set up for the different expatriate communities in the GCC States and are being supported by the concerned authorities. Those private schools have played a significant role in providing education to expatriate workers and their

children. They charge nominal fees as in the case of the Indian and Pakistani schools. They are free of charge as in the case of Iranian schools. To avoid the overlapping of work and school hours, schools also offer evening periods side by side with the regular school days.<sup>15</sup>

**Supplement 3 (Numbers and Nationalities of Expatriate Community Schools):**

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15- Dr Baqer Al Najar, (The Dream of Migration to Wealth , Immigration and Immigrant Labor in the Arabian Gulf), published by Arab Unity Studies Centre, Beirut, 2001, p.149.



## Chapter 4

### Legal and Judicial Rights



## Legal and Judicial Rights

### 1- Equality in employment and career

The GCC States' legislations have highlighted a general, absolute and indiscriminate definition of workers, one that stems from the principle of equality preached by Islam and international pacts related to human rights. The definition is equally based on the provisions set out in the GCC States' constitutions which lay emphasis on the personal freedom and equality between the employer and workers in light of labor-related legislations. The same legislations also underscore provisions that extend equal rights to all workers irrespective of nationality or religion.

This non-discriminatory approach does not end at general definitions but has been elaborated to underline all the consequences of a work contract, be it those related to the worker's rights or his/her obligations towards the employer. Policies marked by indiscriminate have also led to obligations that the employer has to abide by in light of labor laws and regulations. Those include honoring pay, providing a proper work environment as well as occupational, medical and social services in addition to safety measures. Even when they are not so elaborate, labor laws equally consider nationals and expatriates when it comes to rights related to labor matters, according to the territorialism of laws that governs the enforcement of the law which provides for the subordination

of all legal bonds within the state to the provisions of the national law.<sup>16</sup>

## **2-The right to prosecute:**

The right to prosecute is one of the basic human rights, and on that basis, the GCC States take pride in the fact that all their legislations and systems have streamlined the mechanisms that can be followed to settle individual as well collective labor-related disputes through negotiations, mediations, reconciliation and arbitrations.

Stemming from their historical and cultural background as well as their traditions and values, the mechanisms governing the settling of disputes in the GCC States are inclined towards reconciliation and bringing closer viewpoints with the aim of reaching a mutual agreement between both parties. But if such reconciliation is not achieved through labor offices, disputes-related complaints or others with links to work conditions and environment- be it individual or collective-will be looked into by courts.

The right to prosecute for nationals and expatriates has been stressed in constitutions and laws and protected by court judgments. The Constitutional Court in Bahrain<sup>17</sup> has laid

16- The Analytical Studies of the International Agreement on the Protection of Immigrant Workers and their Families. The Social and Labor Studies Series, issue no.50, The Executive Bureau of Council of Ministers of Labour & Council of Ministers of Social Affairs in GCC States, first edition 2008 p.55.

17- The Constitutional Court in Bahrain is considered a judiciary body whose task is to settle disputes related to constitutionality of laws and regulations, for it reviews the compatibility of laws with the constitutional provisions.



emphasis on this right when dealing with one dispute. Its ruling pointed out that: *“the rights drawn from legal provisions should- by necessity and for effecting them- be protected by the lawmaker or the constitution before they come to effect. These rights make it legally abiding for the state to provide the procedures and substantive rules so that the parties involved, be it nationals or expatriates, can repel any aggression against their inalienable rights set as per the state systems. The key to this protection is by article 20 of the constitution as providing for that ‘the right to prosecute is safeguarded’, which is worded in a general and absolute term that it comprises nationals and expatriates as well as all rights, be it the ones set out in the constitution or others in the laws.”*<sup>18</sup>

Stressing the labor-related protection stipulated in the GCC States’ legislations and systems and the support accorded to workers to attain their rights, certain privileges are accorded to the lawsuits filed by workers, which include:

#### **1-Free legal proceedings:**

Exemption from fees in all litigation and execution stages in lawsuits filed by workers or their beneficiaries is one principle set by the labor legislations in the GCC States. That attitude should reflect the sympathies expressed towards the

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<sup>18</sup>- Published in the Kingdom of Bahrain’s official newspaper issue no.2850, dated Jul.3, 2008/the case listed in the court schedule under code D/1/60, judicial year 4. [www.constitutional-court.Org.bh](http://www.constitutional-court.Org.bh).

worker as the party that should be protected. Meanwhile, that protection has not been extended to the employers who are not given any special advantages when it comes to litigation. Exemption from fees is a right that has also been granted to the worker's heirs when filing a lawsuit in case of the worker's death during or because of work service.

## **2-Speedy trial:**

Judicial proceedings are usually slow, going by the long time required for the investigations necessary for issuing rulings. Labor-related cases, however, are ruled with immediate effect to save the worker the suffering caused by a long wait. The principle has been legislatively laid down by the GCC States that have taken into consideration the circumstances the worker should go through in case he/she is suspended due to a pending court ruling.

Considering that the worker loses source of income, the labor legislations have urged speed in ruling out such cases. Also, according to the labor systems, the worker or his/her beneficiary has a privileged right to the employer's movable or immovable property that will be deserved after court fees,

amounts due to public treasury and wife or/and children's maintenance –under maintenance order- are collected.

### 3-Review of judgments:

To ensure the true enforcement of law and consolidate the cornerstones of justice as well as generate credibility and confidence in the judiciary, the aggrieved worker is permitted to resort an ordinary or exceptional means of judicial review in order to annul or amend a previous ruling which was issued by a different court. Undoubtedly, those are the guarantees provided by the laws and regulations to workers to press ahead with their cases and obtain their rights by force of law.<sup>19</sup>

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19- The system of two-degree litigation is implemented in all the GCC States to settle all cases including those related to workers. Under this system rulings can be reviewed and parties involved are better enabled to prove their rights.



## Chapter 5

### Social Nature of Protection



## Social Nature of Protection

### 1- Social Protection:

Believing in the role of social protection in consolidating social welfare, stability and protection for both the worker and family, and in line with the principle of equality stressed by the GCC States' laws and regulations for both the national and expatriate groups, all have the right to social protection. The entire workforce has come under the umbrella of social insurance, which particularly covers occupational disabilities, diseases and death as well as injuries due to work or accidents related to work. In some particular cases the aggrieved worker has the right to a full lump sum of compensation. In case of inability to work due to health problems, the worker is entitled to wages during the period of illness. Pay is bound to continue until the end of illness or when death is reported or total disability has been medically proven. Some illnesses are worth a full pay's compensation.

In some GCC States, the expatriate worker is insured against unemployment on an equal footing with the nationals as in the case of the Kingdom of Bahrain that has issued in 2006 the Decree Law 78 which grants the expatriate worker the right to a compensation against the threat of unemployment should a situation involving this state is proven.

## 2-The right to leave and holidays:

Since rest is necessary to relieve physical and mental exertions caused by tiring work routine, the GCC States' labor laws and regulations have stressed the nationals' as well as the expatriates' right to leave. Paid annual leave is a legitimate and lawful human right.<sup>20</sup> Also by force of law, the worker has the right to a paid weekend in addition to sick leave and off-days on official and religious holidays.<sup>21</sup>

## 3-Abiding by hours of work:

The employer has the right to use his authority to fix work hours in the way that serves the company's interest. To ensure that the worker is not unfairly used by the employer, the labor legislations in the GCC States, however, do not give the latter full control over work hours. The laws and regulations have laid down binding rules that should streamline leave due to workers so that they can regain their power and have enough

20- Court rulings bear witness to this, based on a dispute settled before Bahrain courts, where the Cassation Court stressed that the annual leave is the worker's right enforced by law. The period of leave has been specified for every working year and is set in accordance with considerations that relate to the public order. Challenge no. 280, 2005 – Compilation of Rulings by Bahrain Cassation Court in 2006- Kingdom of Bahrain.

21- To reinforce that, the Bahrain Cassation Court ruled that: "weekends and official holidays are the worker's right enforced by law and are set according to considerations that relate to the public order. It is obligatory for the employer to pay overtime or compensate worker by giving him leave on other days."



time to visit their families and friends. The labor legislations, therefore, have made it incumbent upon the employer to close the enterprise one day or give the worker one day off every week. Also working hours should not go above the average of 8 hours every day or 48 hours every week. Lunch breaks are given during work hours so that the worker would refresh his/her energy. All such procedures are in line with the international labor standards, especially the Convention (1) in 1919 on Hours of Work (Industry) as well as the Convention (30) in 1930 on Hours of Work (Commerce and Offices).

### **3-Protecting the working woman:**

Gender equality is one of the principles that have been stressed by revealed religions and consolidated by international conventions and human rights charters. In line with those principles, men and women are equal in the GCC States' labor legislations irrespective of their nationalities. They are also accorded equal treatment when it comes to labor-related provisions. However, the woman's weaker physical build and her inability to cope with some types of tasks that might harm her health and contradict her maternal duties have been taken into consideration. The labor legislations have stipulated certain provisions for the working

woman, which relate to her work environment and maternal duties as well as the areas of work in which she could be employed. Those provisions give the utmost care to her safety as well as to her occupational and family obligations.

\* \* \*

## Chapter 6

### Health Rights



## Health Rights

### 1- The right to health care:

One of the essential rights extended to the worker in the GCC is the right to health care services. The nationals as well as the expatriates do benefit by these services. The GCC States are planning to implement the health insurance systems, making it one of the employer's obligations towards his staff.

The labor legislations provide for the employer's obligations in case of occupational diseases or work accidents in which the employer is obligated to pay treatment expenses until the full recovery of the worker or is proven disabled. Such expenses include:

#### 1- Specialists' services.

#### 2- Hospital fees and home health care if necessarily needed.

#### 3- Cost of surgery, radiology and medical tests.

#### 4- Cost of medicine necessary for the completion of treatment.

#### 5- In case of rehabilitation, the employer has to manage the supply of artificial limbs and alternative organs as well as provide physiotherapy decided by a medical committee.

**6- He has also to cover the worker's as well as the treating specialist's transport treatment fees.**

Pay won't be cut as a result of injury; the worker will be compensated against the absence caused by the injury. Social insurance systems in the region have agreed on the compulsory involvement of expatriate workers in insurance areas covering professional injuries.

**2- Safety system and professional occupational health:**

The labor systems and legislations in the GCC States have made all efforts to observe safety and professional health measures, all of which provide the protection necessary for the worker in particular and the work environment in general. It has been made obligatory for the employer to follow safety regulations and provide health care as well as ensure the safety measures that would safeguard the workers against the dangers of work-related accidents and occupational illnesses. Meanwhile, the laborers have been obligated to undergo periodical medical check-ups in line with healthcare standards. Saying so, the GCC States prove that the legal link binding the worker and the employer is one with an essential human dimension inspired by the principles of Islamic Sharia. And owing to the climatic

conditions in the Gulf States, the labor authorities have, for example, issued regulatory decisions aimed at limiting work hours in summer for workers employed in open worksites. Such summer work hours are binding for the employer who will be fined for violations.





## Chapter 7

### Other Rights



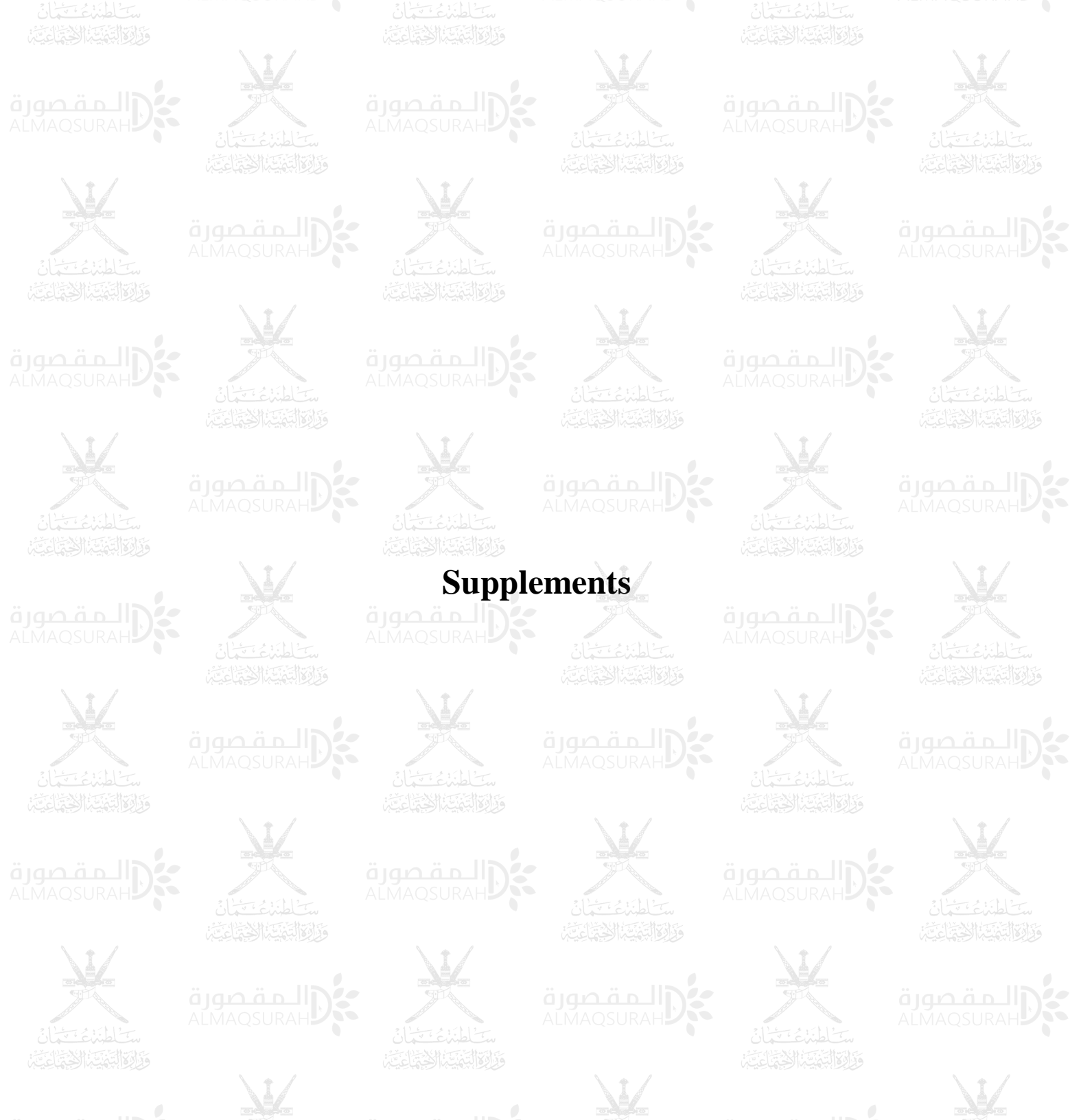
## Other Rights

In addition to the above-mentioned rights and protective measures, other rights have also been granted. Those include:

- 1- The contract will be valid with due effects even upon the employer's death. The work contract cannot be terminated upon his demise. Also the change of the employer or the ownership of the enterprise to another employer does not terminate the contract with the previous employer.
- 2- By force of law, the employer will have to pay for the expatriate incoming worker's transport from the place where the contract was concluded to the workplace, for it goes that the employer is the one who brings and hires the worker. Upon the termination of the contract, the employer also covers the transport cost of the worker back to where the contract was concluded too.
- 3- In case of the workers death, the employer has to cover the funeral cost and shipping of the corpse back to the deceased laborer's home country.
- 4- The worker will be given an end of -service certificate.

\* \* \*





## Supplements

## Supplement (1)

### Numbers & percentages of expatriate workforce temporarily contracted in GCC States

(2009 – 2006)

## Numbers & percentages of expatriate workforce temporarily contracted in GCC States (2006- 2009)

	2006			2007			2008			2009			of
	Total workforce	Expatriate workforce	Percentage expatriate workforce	Total workforce	Expatriate workforce	Percentage expatriate workforce	Total workforce	Expatriate workforce	Percentage expatriate workforce	Total workforce	Expatriate workforce	Percentage expatriate workforce	
<b>UAE</b>	2,567,349	2,560,821	99.7%	3,113,222	3,101,789	99.6%	4,940,205	4,079,453	99.6%	4,097,031	4,080,567	99.5%	
<b>Bahrain</b>	460,265	331,055	72%	503,784	373,655	74%	575,798	435,702	76%	598,491	461,959	77%	
<b>Saudi Arabia</b>	-	4,866,989	-	-	5,061,235	-	-	5,392,890	-	-	6,214,067	-	
<b>Oman</b>	920,303	689,938	75%	1,083,139	822,257	76%	1,378,773	986,560	77.1%	1,394,749	1,075,712	77.1%	
<b>Qatar</b>	-	-	-	827,802	766,095	-	1,168,081	1,100,373	-	1,262,263	1,191,390	-	
<b>Kuwait</b>	1,059,828	1,034,831	-	1,129,421	1,099,913	-	1,121,526	1,088,681	-	-	-	-	
<b>Yemen</b>	-	-	-	-	-	-	-	-	-	-	-	-	
<b>Total</b>	-	-	-	-	-	-	-	-	-	-	-	-	

**Supplement (2)**  
**Workers' remittances in billion**  
**in GCC States**  
**(2006-2009)**



**Supplement (2)**  
**Workers' remittances in billion in GCC States (2006-2009)**

No.	Nation	Conversion rate	2006	2007	2008	2009
1	Emirates	3.6 AED	-	-	13.82.4	10.926
2	(*)Bahrain	BHD, 0.375	575.600	557.500	667.200	523.000
3	Saudi Arabia	3.75 RS	58.464.000	60.213.000	69.000.000	84.375.000
4	Oman(*)	OMR, 0.3845	412.184	542.529	765.924	785.533
5	Qatar	QAR 3.64	4.733.671	5.129.360	7.373.897	8.981.996
6	Kuwait	KWD	-	-	-	-
7	Yemen	YER	-	-	-	-
	<b>Total</b>					

(\*) in million

### Supplement 3

### Numbers of expatriate community schools & their nationalities in GCC States in 2009

### Supplement 3

#### Numbers of expatriate community schools & their nationalities in GCC States in 2009

No.	Nation	India	Pakistan	Philippines	Others
1	Emirates	74	19	5	559
2	Bahrain	2	2	1	2(French/Japanese)
3	Saudi Arabia	5	6	4	42
4	Oman	15	5	1	12
5	Qatar	8	2	2	31
6	Kuwait	-	-	-	-
7	Yemen	-	-	-	-
	<b>Total</b>				



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العدد (٢٤):	رعاية الطفولة.. تعزيز مسؤوليات الأسرة وتنظيم دور المؤسسات، يناير ١٩٩٤.
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العدد (٢٦):	واقع ومتطلبات التنقيف والتدريب والتعليم والإعلام التعاوني، يونيو ١٩٩٤.
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العدد (٣٢):	نحو لغة مهنية موحدة في إطار العمل الخليجي المشترك، ديسمبر ١٩٩٦.
العدد (٣٣):	وسائل تطوير السلامة والصحة المهنية في ضوء المتغيرات والمستجدات الحديثة، مارس ١٩٩٧.
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العدد (٣٥):	نظم معلومات سوق العمل في إطار التشغيل وتنمية الموارد البشرية، يونيو ١٩٩٨.
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